REMARKS

Reconsideration and withdrawal of the restriction requirement and election of species are respectfully requested in view of the remarks herewith.

The November 16, 2004 Office Action called for restriction from among the following:

Group I: Claims 1-8, drawn to an isoxazolopyridone compound, classified in class 546, subclass 115; and

Group II: Claim 9, drawn to a medicine for multiple methods of use, classified in class 514, subclass 302.

Group I is elected, with traverse, for further prosecution in this application. Applicants reserve the right to file divisional applications to non-elected subject matter. Reconsideration and withdrawal of the restriction requirement are respectfully requested in view of the remarks herewith.

As a traverse, it is noted that the MPEP lists two criteria for a proper restriction requirement. First, the inventions must be independent or distinct. MPEP § 803. Second, searching the additional inventions must constitute an undue burden on the examiner if restriction is not required. *Id.* The MPEP directs the examiner to search and examine an entire application "[i]f the search and examination of an entire application can be made without serious burden, ...even though it includes claims to distinct or independent inventions." *Id.*

The Office Action States that Group I and Group II are related as product and process of use. It is respectfully submitted that any search for the compositions of the Group I claims will certainly encompass references for the medicine of the Group II claims. The two groups are inextricably linked in that the compositions of both groups are directed to novel isoxalopyridone compounds. Applicants respectfully disagree with the Examiner's assertion that the treatment of anxiety disorders, eating disorders, epilepsy and Alzheimer's disease are materially different processes. Rather, all of these disorders are related in that they can all be treated with metabotropic glutamic acid receptor antagonists, such as the novel isoxalopyridone compounds of the present invention. Since the disorders of claim 9 are mediated through a common mechanism, i.e., glutamic acid receptor, Applicants respectfully submit that the disorders are not materially different processes.

Therefore, it is respectfully submitted that it would not place an unnecessary burden on the Examiner to search and examine both groups together, as a search for the Group I compositions would necessarily include the Group II compositions.

In view of the above, reconsideration and withdrawal of the restriction requirement is respectfully requested.

In summary, enforcing the present restriction requirement would result in inefficiencies and unnecessary expenditures by both the Applicants and the PTO, as well as extreme prejudice to Applicants (particularly in view of GATT, whereby a shortened patent term may result in any divisional applications filed). Restriction has not been shown to be proper, especially since it has been shown that the requisite showing of serious burden has not been made. Indeed, the search and examination of each Group would be likely to be co-extensive and, in any event, would involve such interrelated art that the search and examination of the entire application can be made without undue burden on the Examiner. All of the preceding, therefore, mitigate against restriction.

Consequently, reconsideration and withdrawal of the restriction requirement are respectfully requested.

CONCLUSION

In view of the amendments and remarks herein, reconsideration and withdrawal of the restriction requirement are requested.

Early and favorable consideration of the application on the merits, and early Allowance of the application are earnestly solicited.

Respectfully submitted,
FROMMER LAWRENCE & HAUG LLP

By: Deborah L. Lu

Thomas J. Kowalski
Reg. No. 32,147
Deborah L. Lu
Reg. No. 50,940
Telephone: (212) 588-0800
Facsimile: (212) 588-0500